

STATEMENT OF

**JOE WILLIAMS
PRESIDENT, GULF COAST RETAILERS ASSOCIATION**

**BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM**

**SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG
POLICY AND HUMAN RESOURCES**

**FIELD HEARING on ORGANIZED RETAIL THEFT:
CONDUIT OF MONEY LAUNDERING
HOUSTON, TX**

NOVEMBER 10, 2003

Dear Chairman Souder and Members of the Subcommittee,

My name is Joe Williams. I am President of a retail trade association called Gulf Coast Retailers Association (GCRA) headquartered here in Houston, Texas. I also serve on USDA's National Advisory Council on Maternal, Infant and Fetal Nutrition and a member of the Food Marketing Institute's (FMI) WIC Task Force.

GCRA has approximately 600 member companies representing over 1,000 locations and a diverse group of members including supermarkets, convenience stores, discount stores, furniture stores, department stores, chain drug stores, specialty retailers, gift stores and suppliers, distributors and manufacturers to several types of the retailers in the membership.

Organized Retail Theft

Organized retail theft (ORT) is a growing problem throughout the United States affecting a wide range of retail establishments including supermarkets, chain drug stores, independent pharmacies, mass merchandisers, and convenience stores. It has become the most pressing security problem confronting retailers and suppliers, and now accounts for over \$30 billion in losses at store level annually according to the Federal Bureau of Investigation's (FBI) interstate theft task force (Washington Post- August 4, 2001).

ORT crime is separate and distinct from petty shoplifting in that it involves professional theft rings that move quickly from community to community and across state lines to pilfer large amounts of merchandise that is then repackaged and sold back into the marketplace. Petty shoplifting, as defined, is limited to items stolen for personal use or consumption.

Targeted Products

ORT Rings typically target everyday household commodities and consumer items that can be easily sold through fencing operations, flea markets, over the Internet, swap meets and shady storefront operations. Items that are in high demand by these professional theft rings include over-the-counter (OTC) drug products, such as analgesics and cough and cold medications, razor blades, camera film, batteries, videos, DVDs, CDs, smoking cessation products and infant formula.

Consumer Health and Safety Risks

Consumers are at risk when ORT gangs steal consumable products especially OTC drug items and infant formula. In many cases after the merchandise has been stolen, the products are not kept under ideal or required storage conditions that can threaten the integrity of the product. For example, extreme heat or cold can affect the nutrient content or physical appearance of infant formulas.

When products are near the end of their expiration date, ORT middlemen may change the expiration date, lot numbers and labels to falsely extend the shelf life of the product and to disguise the fact that the merchandise has been stolen. In addition, cough and cold products are popular with ORT Rings because these medications can be sold to clandestine labs for the purpose of manufacturing methamphetamine.

Economic Impact on Consumers

Retail theft results in consumers having to pay higher prices for the products they purchase as retail establishments attempt to cover their losses. Higher prices adversely affect all consumers especially the most needy in America, such as the elderly and families that depend upon Food Stamps and the WIC Program to augment their limited budgets.

Moreover, this type of criminal activity is also inconveniencing consumers. Because theft has become so rampant in certain product categories, for example infant formula, a number of major retail companies are taking the products off the shelves and placing them behind the counter or under lock and key. In some cases, products are simply unavailable due to high pilferage rates.

Infant Formula Theft

Texas currently serves over 800,000 households who participate in the Women, Infant and Children (WIC) Program. The WIC Program serves to safeguard the health of low-income women, infants and children up to age 5 who are at nutritional risk by providing nutritious foods to supplement diets, information on healthy eating, and referrals to health care. Over 50% of the infants born in Texas receive WIC benefits. This means that approximately 200,000 Texas babies receive WIC benefits, which include infant formula and is the babies' only source of nutrition. Approximately 3,500 babies' on the WIC Program are totally breastfed.

There is compelling evidence that theft of infant formula and subsequent repackaging, alteration, falsification of labeling to change expiration dates, storage of formula at improper temperatures in trucks and warehouses and finally sale to unsuspecting WIC retailers or laundering of product through storefronts posing as legitimate WIC retailers, flea markets or over the Internet through sites like E-Bay poses a health hazard to every infant in Texas and in the nation who is dependent upon this product for their sole source of nutrition.

A majority of the infant formula products stolen and then illegally distributed back into the marketplace contribute to funding of Organized Crime Rings and in some cases, links to funding terrorist organizations.

Scope of Texas Problem

There are approximately 400,000 infants on infant formula in Texas at any given point in time. Less than 2% of that population is breastfed. A baby normally needs 32 oz. of fluid formula a day. A baby normally consumes 4 oz. per serving. A 12.9 or 14 oz can of infant formula powder contains approximately 24 servings. One can of infant formula powder will normally sustain one baby for three days. This means that on any given day in Texas, Texas infants would consume 133,333 cans of 12.9 oz. powdered infant formula assuming this type of infant formula was the only one available. Assuming Texas serves 10% of the total WIC population in the nation, you could estimate that there are 4,000,000 babies at a given point in time consuming 1,333,333 cans of infant formula.

Infant formula is one of the top ten items targeted and most frequently shoplifted. As a product category, contract infant formula (state contracted brand preference for WIC Program) represents

over 75% of the brand targeted for theft. In March of 2003, we estimated the amount of infant formula products shoplifted in Texas at \$2.5 million or 118,945 cans of infant formula powder as a representation. This is one day's complete nutritional needs for approximately 354,000 babies' in Texas, or nearly a one-day supply for all the babies in Texas.

Texas Infant Formula Task Force

A Task Force was organized through our state WIC Advisory Board to address this growing problem. The Task Force is comprised of local, state and federal agency personnel; client advocates; local, state and federal law enforcement, retailers and retailer associations; and manufacturers met in early December of 2002 to discuss and develop a set of recommendations to combat the growing infant formula theft problem. The group meets on a regular basis, reporting back to the WIC Advisory Board and on progress of the recommended solutions as well as the development of new strategies as needed. Those recommendations included:

- Seeking legislation strengthening penalties in the State's Food and Drug Code that penalized individuals operating as an unlicensed food wholesaler or supplier of food products.

Note: SB 1826 was signed into law by Gov. Perry, effective Sept. 1, 2003.

- Developing contract provisions that would require WIC vendor/retailers to only purchase infant formula through state licensed/inspected wholesaler/distributors. Note: Received USDA/TDH Board approval and effective with contract starting 10/1/03.

- Working with infant formula manufacturers to develop product packaging that would accept security tags.

Note: Manufacturers say this is under study through R & D departments.

- Looking at short-term solutions of relocating contract infant formula products behind lock and key or moving to a highly visible area.

Note: Not feasible for most stores and causes confusion/customer service issue and spotlights WIC client customers.

- Seeking to raise industry, law enforcement and state and federal legislators awareness of the issue and its dangerous health concerns without creating a "Tylenol Panic".

Note: Members of the Task Force have met and made presentations to the National Association of Food Industry Executives; the National Association of State Attorneys General; the National Advisory Council on Maternal, Infant and Fetal Nutrition; the Southern Region of State WIC Directors; FMI's Public Policy Conference; the Texas Storage Building Association and many others.

- Working to develop legislation at the state level forbidding the re-sale of consumable food items (infant formula, baby food) usually consumed by children younger than two years of age.

Note: HB 749 was signed into law by then Gov. Bush effective Sept. 1, 1999. Also support S.1553, sponsored by Sen. Larry Craig, R-Idaho, and "Organized Retail Theft Act of 2003.

- Working to seek legislation or regulation of the sale of consumable food items to children two years and younger and other items like prescription drugs via the Internet through on-line flea markets like E-Bay.

Results Seen at Wholesaler/Distributor Level

It has been reported that wholesalers/distributors in the Houston area have seen a sizable increase in the sale of contract (Enfamil) infant formula from their retail customers in the last few months. In visiting with one large regional wholesaler that services over 1,000 supermarkets (Independents to regional chains) in Texas, they are reporting an overall increase in business of 6% for the time period of March 2003 to September 2003. In that same time period the movement on their contract infant formula is up 12.5%. They attribute this to several of their legitimate and licensed retailers, who purchased the bulk of their products from this wholesaler but purchased infant formula products from a specialty distributor who just handled infant formula products and who represented themselves as a legitimate and licensed distributor. This was an unlicensed distributor tied in with Organized Crime Rings operating in the Houston area and in some cases these retailers were buying product back at reduced prices that in some cases had been stolen from their stores originally. No type of store (supermarket, discount, drug, convenience and or neighborhood store) was immune from the theft of infant formula products. This wholesaler has seen the rest of the infant formula (non-contract) category show a slight increase as well over the overall increase of the business in general. The increase in sales for this wholesaler for contract formula is equal to about 2200 cases per week or enough product to feed 40,000 babies for one day.

Another wholesaler who specializes in serving smaller neighborhood and rural stores has reported their sales of contract infant formula products have more than doubled. One example is Enfamil Powder which increased from 2,763 cases in March 2003 to 4,201 cases in September 2003. The Enfamil Concentrate went from 1719 cases in March 2003 to 6,934 cases in September 2003. In checking with them as to customer base, they have had no significant changes in customers or do they show this type of increase in any other category.

Results Seen at Retail Level

Three national chains and one major multi-state regional food retailer participated on the Infant Formula Task Force. Some of the reported results from these participants are discussed below taking into account that sales in the respective companies are generally flat during the time period from March to September 2003:

- Company A
 1. Contract infant formula sales increased 28% from March to September 2003.
 2. Shrink of the infant formula category has dropped from 10% to 6% of sales of this category. Compared to a year ago it has dropped from 18-20% shrink. Normal shrink on a typical product category like infant formula is 3.5% of sales.
- Company B
 1. Infant formula loss in March 2003 \$220,000.
 2. Infant formula loss in September 2003 \$70,000.

68.18 % improvement after recommendations were implemented
\$70,000 theft of infant formula in one month is still a major concern. This represents enough contract infant formula to feed 10,522 babies their

recommended 32 ounces a day.

- Company C
 1. Infant Formula loss in March 2003 \$375,000
 2. Infant formula loss in September 2003 \$55,00085.33 % improvement after recommendations were implemented.
\$55,000 represents enough infant formula to feed 8,250 babies for one day.

Based on the retailers participating and the market share they enjoy in Texas, we estimate the September 2003 amount of infant formula products shoplifted/stolen in Texas to be valued at \$1.1 million dollars. This indicates a reduction of 56% since March 2003 and since some of the recommended solutions by the Task Force were put into place. But the amount of infant formula products still being shoplifted on a regular basis is still too high and constitutes a potentially life-threatening public health issue. Additionally, we have seen a shift of fencing or laundering the stolen product from our state to other border states or in other methods like flea markets and E-Bay. This current amount (\$1.1 million) is enough to feed 165,000 babies for one day. Infant formula theft is a nationwide problem and must be treated as such; it impacts our most vulnerable citizens of our state and nation, who are dependent on these products for 100% of their life sustenance. I applaud this Committee for holding this hearing an attempting to address this problem on a national basis.

Next Steps

- Mandate through the reauthorization process of the WIC program that USDA require states, territories, and tribal councils develop a structure that licenses and inspects all entities involved in the distribution of authorized WIC products including infant formula products from the manufacturer to the authorized WIC retailer. WIC retailers who choose to participate in the WIC Program must purchase their authorized and approved WIC products from an approved, licensed and inspected wholesaler/distributor.
- Request FDA to formally host a series of feedback sessions with retailers, manufacturers of infant formula products, state WIC agencies and sensor tag, tracking specialists to research alternative packaging conducive to source tagging devices or labels like the Electronic Product Code (EPC).
- Require states to mandate that retailers who choose to participate as a WIC retail vendor must meet both WIC and Food Stamp eligibility qualifications for vendors as recommended by the National WIC Association.
- Develop legislation prohibiting the sale of consumable food products usually consumed by children two years or younger through the Internet (E-Bay) and other similar on-line flea markets.
- Support the S. 1553, "Organized Retail Theft Act of 2003" sponsored by Senator Larry Craig, R-Idaho and encourage a House companion bill to be introduced and moved through the legislative process.

Thank you for the opportunity to testify before you today on this very important topic. I would be glad to answer any questions you may have.

